

## **REMARKS/ARGUMENTS**

This is in response to the Non-Final Office Action dated January 12, 2009. Claims 1 and 3 have been canceled, without prejudice. Claims 2, 4-8 and 10 have been amended. No new matter has been added. Claims 2 and 4-14 remain pending in this application with claims 2, 5, 7, 8 and 10 being the only independent claims. Reconsideration in view of the amendments and arguments is respectfully requested.

### **Claim Rejection – 35 U.S.C. §101**

Claims 1-14 are rejected under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention.

The Federal Circuit in the decision *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008) expressed the proper analysis for determining patent-eligibility as the machine-or-transformation test. “A claimed process is surely patent-eligible under §101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state of thing.” *In re Bilski*, *Id.* At 10 (emphasis added). Applicant submits that the independent claims satisfy the second transformation prong.

Independent claim 2 specifies the steps of “transforming the data by compression”; “transmitting the compressed data and the additional information”; and “reassembling the compressed data with the additional information.” Accordingly, the claimed method transforms the data (e.g., particular article) by compression followed by reassembly.

The *Bilski* decision further acknowledged that “the transformation of that raw data into a particular visual depiction of a physical object on a display was sufficient to render that more narrowly-claimed process patent-eligible.” *Id.* At 26. The present method claims in fact includes as a final step of “displaying the reassembled data.”

Independent claims 5, 7 and 8 include the same limitations discussed above with respect to claim 2 and thus are also eligible statutory patent subject matter for at least the reasons described for claim 2.

Independent claim 10 similarly includes the steps of “compressing a data stream”; “transmitting the compressed data stream by prioritized transmission from a transmitter to a

receiver”; and “reassembling the compressed data with the additional information.” Once again, the claimed method transforms the data (e.g., particular article) by compression followed by reassembly.

Claim 10, similar to that of claim 2, also includes the final step of “displaying the reassembled data.” As noted above with respect to claim 2, the displaying of such physical data renders the claims process patent-eligible.

For at least the foregoing reasons, Applicant submits that independent claims 2, 5, 7, 8 and 10 are statutory eligible subject matter and requests that the rejection under 35 U.S.C. §101 be withdrawn.

### **Claim Objections**

Claim 2 is objected to in that, as amended, it depends on a later claim 3. Claim 2 has been rewritten in independent form and thus the objection is now moot.

### **Claim rejections under 35 USC § 112, first paragraph**

The Examiner rejected claims 10-14 as failing to comply with the written description requirement. Specifically, the Examiner asserts that the specification, as originally filed, lacks prior support for the limitation in claim 10 that states “compressing the image array containing both the image data of the pixel groups and additional information.” More specifically, the Examiner asserts that the specification discloses that the additional information is located outside the image array, however, in claim 10 the additional information is part of the image array. Applicant has amended claim 10 to state “compressing a data stream including both the image data of the pixel groups at the position value within the image array and the additional information at the position values outside the range of the image array.” Withdrawal of the rejection in view of the amendment to claim 10 is therefore requested.

### **Claim rejections under 35 U.S.C. §112, second paragraph**

Claims 10-14 are rejected as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner

rejects claim 10 which contains contrary statements regarding whether the additional information is inside or outside the image data array. Applicant submits that this rejection is overcome in view of the amendment to claim 10 which reads “compressing a data stream including both the image data of the pixel groups at the position value within the image array and the additional information at the position values outside the range of the image array.” Withdrawal of the claim rejection is therefore requested.

**Prior Art Claim Rejections**

Claim 1 is rejected as anticipated by Shiimoto et al. (US Patent Publication No. 2002/0053049).

Claims 3, 6 and 9 are rejected as obvious over Shiimoto et al. in view of Kobayashi et al. (US Patent No. 6,493,692).

Claim 4 is rejected as obvious over Shiimoto et al. in view of Xie et al. (“Feature representation and Compression for Content-Based Retrieval,” H. Xie and A. Ortega, Proc. Vol. SPIE 4310, pp. 111-122 (2000)).

***Dependent claims 2, 5, 7, 8, 10-14 have not been rejected over the prior art of record and thus are assumed to contain allowable subject matter.***

Claims 2, 5, 7 and 8 have been rewritten in independent form to include the limitations of the base claim and all intervening claims. Accordingly, independent claim 2 is patentable over the prior art of record. Claims 4-9 depend from claim 2 and thus are patentable over the prior art of record. Claims 10-14 have not been rejected in view of prior art and thus are also allowable.

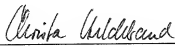
**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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